

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

COMMONWEALTH OF PA DEP'T)	
OF PUBLIC WELFARE,)	Civil Action No. 05 - 1285
)	
Plaintiff,)	Chief Judge Donetta W. Ambrose
)	Magistrate Judge Lisa Pupo Lenihan
v.)	
)	
UNITED STATES, U.S. DEP'T OF)	Doc. Nos. 8 and 13
HEALTH & HUMAN SERVICES,)	
)	
Defendants.)	

MEMORANDUM ORDER

The above captioned complaint was received by the Clerk of Court on September 16, 2005, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation (Doc. No. 22), filed on November 22, 2006, recommended that Defendants' Motion for Summary Judgment (Doc. No. 8) be granted with regard to the issue of the adequacy of the FOIA search, but denied without prejudice in all other respects. The Report and Recommendation further recommended that Plaintiff's Rule 56(f) Motion (Doc. No. 13) be denied without prejudice on the issue of the adequacy of the FOIA search, but granted on the remaining issues. Service was made on all counsel of record. Plaintiff filed timely Objections to the Report and Recommendation (Doc. No. 23) on December 1, 2006, to which Defendants filed a timely response on December 12, 2006 (Doc. No. 26). Defendants filed timely Objections to the Report and Recommendation on December 6, 2006 (Doc. No. 24), to which Plaintiff


filed a timely response on December 18, 2006 (Doc. No. 28). After review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following order is entered:

AND NOW, this 21st day of December, 2006,

IT IS HEREBY ORDERED that Defendants' Motion for Summary Judgment (Doc. No. 8) is **GRANTED IN PART AND DENIED IN PART**. Defendants' Motion for Summary Judgment is **GRANTED WITH PREJUDICE** as to the adequacy of the FOIA search, and **DENIED WITHOUT PREJUDICE** in all other respects.

IT IS FURTHER ORDERED that Plaintiff's Rule 56(f) Motion (Doc. No. 13) is **GRANTED IN PART AND DENIED IN PART**. Plaintiff's Rule 56(f) Motion is **DENIED WITH PREJUDICE** on the issue of the adequacy of the FOIA search, and **GRANTED** on the remaining issues. Plaintiff is entitled to limited discovery on the remaining issues, the parameters of which shall be set by the Magistrate Judge.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 22) of Magistrate Judge Lenihan, dated November 22, 2006, is adopted as the opinion of the Court.


Donetta W. Ambrose
Chief United States District Judge

cc: Lisa Pupo Lenihan
U.S. Magistrate Judge

All Counsel of Record
Via Electronic Mail